



SouthDakota

# Legislative Research Council

# MINUTES

## Joint Interim Committee on Appropriations

---

Third Meeting  
2014 Interim  
July 28, 2014

LCR 1 & 2  
State Capitol Building  
Pierre, South Dakota

### Monday, July 28, 2014

The third meeting of the Joint Interim Committee on Appropriations for 2014 was called to order by the lead Co-Chair, **Senator Deb Peters**, at 10:00 a.m. (CDT) in Legislative Conference Rooms 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senator Deb Peters, Co-Chair; Representative Fred Romkema, Co-Chair; Senators Phyllis Heineman, Al Novstrup, Alan Solano, Billie Sutton, Larry Tidemann, Bill Van Gerpen, and Jim White; and Representatives Jim Bolin, Lance Carson, Dan Dryden, Don Haggard, Spence Hawley, Mark Mickelson, and Susan Wismer. Excused were Senator Tom Jones and Representative Dick Werner.

Staff members present included Annie Mehlhaff, Chief Fiscal Analyst; Aaron Olson, Principal Fiscal Analyst; Denice Houlette, Senior Fiscal Analyst; Jason Simmons, Senior Fiscal Analyst; Stephanie Gruba, Fiscal Analyst; and Cindy Tryon, Senior Secretary.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.sd.gov>.*

### Approval of Minutes

**A MOTION WAS MADE BY REPRESENTATIVE CARSON, SECONDED BY REPRESENTATIVE DRYDEN, TO APPROVE THE MINUTES OF JUNE 17, 2014. Motion prevailed on a voice vote.**

### Bureau of Finance and Management

**Commissioner Jason Dilges** introduced two new budget analysts with the Bureau of Finance and Management, Kelsey Hanson and Lindsey Hildebrand.

**Update on FY14 End of Year Report – Mr. Jim Terwilliger, State Economist, BFM**, gave the year-end report for FY2014 (**Document #1**). The report shows that actual revenues were up \$2.6 million compared to the March estimates. In addition, there was almost \$7.2 million in total reversions. The cash surplus for FY2014 is about \$9.8 million.

**Senator Billie Sutton** asked about the one-time revenue source item that shows a \$3 million deficit. Mr. Terwilliger said that when setting the estimates, the liquidation of a foreign stock from unclaimed property was expected and that did not happen. It is that non-sale that created the \$3 million decrease.

**Senator Phyllis Heineman** asked for the reasoning for the decrease in lottery revenues. Mr. Terwilliger explained that the lottery sales remained the same but the amount of prize payout

increased. If the large prizes for a new game are paid out early, it can take some time before the sales revenue evens out the payouts.

**Representative Don Haggar** asked if there were specific reasons for the \$4.4 million additional sales and use tax revenue. Mr. Terwilliger said that there were record audit collections which accounted for \$1.8 million. Also, certain sectors of the economy, such as agriculture, saw increases in sales, as well as a significant increase in the contractors' excise tax.

**Representative Susan Wismer** asked why the bank franchise tax had been underestimated by such a large amount. Mr. Terwilliger said that there was a large tax payment made in April that they had not been expecting.

Mr. Terwilliger pointed out that page 5 of Document 1 includes more detailed information regarding the revenue increases from FY2013 to FY2014.

Senator Heineman asked if there was a reason why the severance tax had such a large decrease. Mr. Terwilliger said that there was very little gold production in the state in FY2014 and that the bad weather caused production to shut down entirely for several days.

Representative Wismer asked about the adverse effect of the October 2013 blizzard that killed so much livestock in South Dakota. Mr. Terwilliger said that about 30,000 head of livestock were lost in South Dakota during that blizzard. At any given time, there are 2 – 3 million head of livestock in the state. Two factors that have helped some in offsetting those losses are that livestock prices have gone up and feed prices have decreased.

Mr. Terwilliger presented the final page of the year-end report which lists the agency reversions. The total number of reversions for FY2014 was \$7,166,563.

The Department of Social Services had the largest reversion at \$6,288,147. The vast majority of the Social Services reversion was from Medicaid. Mr. Terwilliger explained that there are fewer adults on Medicaid and the payments have decreased. He said that Medicaid sees declines every year but the numbers were even lower than expected for FY2014.

Commissioner Dilges added that there is information regarding the Medicaid numbers on the BFM website. He said that there have been changes to the Medicaid program. He continued by pointing out that although there is increased utilization of Medicaid, those using it are mostly children, and total costs for caring for children are much less than adult care. The Commissioner said that BFM will continue to monitor this activity closely.

### **Interim Revenue Estimate**

Mr. Terwilliger presented the Bureau of Finance and Management's Revenue Estimate Report (**Document #2**). *"The updated FY2015 revenue estimates from the Bureau of Finance and Management total \$1,392,052,374 on an ongoing basis. This updated projection is \$215,941 higher than the Legislative Adopted FY2015 estimate. Since this updated forecast is slightly higher than the Adopted FY2015 budgeted level, there is no shortfall in the current fiscal year at this time and no further action is necessary under SDCL 4-8A-16."*

**Mr. Aaron Olson, Principal Fiscal Analyst, Legislative Research Council**, presented the Legislative Research Council's Interim Revenue Projections (**Document #3**). *"The 2014 Legislature appropriated \$1,391,836,433 from the general fund for FY2015, the current fiscal year. As of July 24, 2014, the Legislative Research Council projects general fund revenues for the current fiscal year 2015 to be*

*\$1,393,700,240. This estimate does not project a shortfall in excess of the two and one-half percent (\$34.8M shortfall) threshold and as such, does not warrant any further action."*

Both Mr. Terwilliger and Mr. Olson commented that it is so early in the new fiscal year that no actual monthly data is available and that these estimates are very preliminary.

## **Legislative Research Council Reports**

**Ms. Annie Mehlhaff, Chief Fiscal Analyst, Legislative Research Council**, gave an update on the Key Performance Indicator project that the fiscal staff has been working on with the Government Operations and Audit Committee. Ms. Mehlhaff distributed a mock template showing how the data collected could be better reported (**Document #4**). The mock template is based on information gathered from other states and the processes they use. Seven states already use this process for their agencies.

These reports would be a numeric description of the agency's work and would provide a snapshot of current performance so it can be compared to past performance. All this information would alert the agency and the Joint Committee on Appropriations if something should get off track.

The three questions asked of the agency when preparing the report are: What goals are you trying to accomplish; what activities are you doing to accomplish the goals; and, how do you measure whether you are accomplishing the goals. These questions assist in determining what data needs to be collected. Each agency would work with the Government and Operations Committee (GOAC) to find the answers to these questions and set the performance measures and targets.

The first agencies selected to take part in the project are the Department of Education, Department of Corrections, Department of Health, and the State Treasurer's Office. The intent is to have this project ready for the FY2016 Legislative Session.

**Senator Deb Peters** commented that GOAC will first look at the performance indicators and evaluate the data and then the Joint Committee on Appropriations will look in the information to see how the trends affect the costs.

**Ms. Denice Houlette, Senior Fiscal Analyst, Legislative Research Council**, presented a tentative schedule for the West River Tour that will be held October 8 – 10, 2014. (**Document #5**).

Senator Peters pointed out that the Streamlined Sales Tax meeting ends at noon on Wednesday so the tours could start Wednesday afternoon and be done by Thursday evening. That would give the members who have long distances to travel all day Friday to return home.

Ms. Houlette said that she would make revisions to the schedule and then distribute options to the committee members for them to make a final decision.

## **Agency Presentations**

### **Status of State Debt Reduction**

**Mr. Don Templeton, Executive Director, SD Building Authority, and Mr. Dustin Christopherson, Associate Director of the SD Health and Educational Facilities Authority**, presented the *Report to the Interim Joint Committee on Appropriations on Savings Relating to HB 1206 of the 2014 Legislative Session* (**Document #6**).

The report shows that by reducing the state debt, the interest and fee savings to the State of South Dakota was \$15,143,429.52.

### **Future of Federal Highway Funding**

**Mr. Darin Bergquist, Secretary, Department of Transportation (DOT)**, gave a report on the Federal Highway Trust Fund (**Document #7**). Secretary Bergquist explained that to receive highway funding, DOT first must receive obligation authority, which commits the federal highway fund to pay for their share of a project, usually 80%. Once the project is completed, the state sends a bill to the federal highway trust fund and they send payment back to the state.

Page two of the handout illustrates how the federal highway trust fund will be broke by the first of September if nothing is done. Secretary Bergquist said that he expects rationing of federal funds to begin August 1 which means that the state will most likely be paid only 60% of the project costs rather than the 80%. This same scenario occurred in 2008, but Congress stepped in just in time and came up with the needed funding. Because of the changes in the federal budget resolution, such a last minute save to the fund will not be so easily decided this time.

Senator Sutton asked what will happen if nothing is done. Secretary Bergquist said that the highway trust fund is constantly receiving revenue and they will most likely disperse those funds to the state as they are received but it will be a much smaller percentage than what is needed. The state will then need to front the balance. The Secretary said that amount needed from the state could easily reach \$100 million by the end of October.

**Senator Bill Van Gerpen** asked the Secretary how the existing contracts will be paid if the federal money is not available. Secretary Bergquist reminded the committee that all state DOTs are facing this issue. He said that he is not sure how contractors will get paid for contracts throughout the summer and he has no idea if there will be funding available for contracts next year.

**Representative Lance Carson** asked how much is out there in financial obligation and how will that be paid. Secretary Bergquist said that there are about \$250 million in contracts of which the federal highway trust fund had authorized payment of 80%. The state highway trust fund balance is \$40 million and there is an additional \$25 million in the infrastructure bank that is intended for loans but could be used. Once that money runs out they will have to go to the Bureau of Finance and Management to request additional funds.

**Representative Fred Romkema** asked how much revenue the state receives from the state gas tax. Secretary Bergquist said that the state currently raises about \$120 million annually through the gas tax. Every penny of gas tax is worth about \$6.6 million.

**Senator Jim White** pointed out that 1993 was the last time there was an increase in the federal gas tax, which provides revenue for the federal highway trust fund.

### **Effects of Modified Adjusted Gross Income (MAGI) on CHIP and Medicaid Eligibles**

**Ms. Lynne Valenti, Secretary, Department of Social Services and Ms. Brenda Tidball-Zeltinger, Deputy Secretary**, distributed a graph showing the Medicaid average monthly eligible totals (**Document #8**). Ms. Valenti explained that when the federal government first converted to the Modified Adjusted Gross Income (MAGI) calculation of standards, the conversion rate for South Dakota was incorrect. Ms. Valenti said that the Department of Social Services put a lot of time into getting these numbers corrected and now monitor the data very closely to make sure it is fair and correct.

**Representative Jim Bolin** asked if the state will have to shoulder a larger percentage next year. Ms. Valenti said that they are anticipating an increase.

The federal government's purpose of converting to MAGI is so that the states would be more consistent. With MAGI, they now use gross income instead of net income.

Representative Don Hagggar asked if they have a sense yet of the total net dollar amount. Ms. Tidball-Zeltinger said that they are still reviewing all the information and the data and that when the adjustments are completed they will inform Jason Simmons, Senior Fiscal Analyst with the Legislative Research Council.

### **Update on the Periodic Adjustment of Provider Reimbursement Rates**

Ms. Valenti explained that there are 15 different provider groups and thousands of different rates. The Department of Social Services evaluates the provider rates and makes adjustments when needed.

Most recently, nursing home rates were adjusted in acknowledgement of cost increases. Ms. Valenti said that they did not do a full rebase, which would bring providers up to 100% of their costs, but did do an increase. In FY2014, there were about 150 fewer clients than anticipated so that money was used to fund the additional increase.

**Representative Mark Mickelson** asked if they anticipate ever filling all the allotted beds. Ms. Valenti explained that they have seen the reduced number of beds needed as a trend and that they believe the trend will continue.

Senator Heineman asked if the Department knows why this trend is occurring. Ms. Valenti said that there are more community services available, there are more providers, and people are able to stay in their own communities longer. Ms. Valenti added that this trend is found for both private pay and government pay nursing home beds. About 57% of people in nursing homes are funded through Medicaid.

Representative Wismer asked why the Appropriations Committee wasn't informed of this additional money paid out prior to the nursing homes being notified. Ms. Valenti said that the decision was made well after the last day of the Legislative Session. The department sets rates as a part of normal business and constantly evaluates rates and costs and makes these decisions when the dollars are available.

Senator Van Gerpen said that we left session looking at a 3% increase for the nursing homes and then the Department decided on a bigger increase but didn't let us know. The appropriators should receive this type of information before the nursing homes receive it.

Senator Peters said that she agrees with Senator Van Gerpen and asked that in the future the Joint Committee on Appropriations be informed about these changes prior to that information going public.

### **State Aid to Education and Special Education Funding Transfers**

**Ms. Tamara Darnall, Finance Officer, Department of Education**, explained that the Department of Education did a transfer of \$828,665 to offset the statutorily required carryover from FY2014 associated with the extraordinary cost fund within the state aid to special education budget. Ms. Darnall said that having the money available increased the maintenance of effort so the base transfer was needed in order to avoid that increase.

Representative Mickelson asked why this wasn't in the budget request. Ms. Darnall said that they do not meet regarding the extraordinary cost fund until May, so they do not know until then what the request will be.

The Department of Education also transferred money from various year end balances into the State Aid budget to be carried forward to FY2015. Representative Wismer asked if the Department could have let the funds go into the reserves. Ms. Darnell said yes but they chose to do the transfer instead in order to protect themselves for FY2015.

### **State Employee Health Insurance Fund Update**

**Mr. Tom Steckel, Director of Employee Benefits, Bureau of Human Resources, and Ms. Mary Keeler, Accountant, Bureau of Finance and Management,** presented information regarding the state employee health insurance fund.

Mr. Steckel said that paid claims in FY2014 were 9.8% lower than originally projected. State Employee Health Plan paid claims were \$107.7 million in FY2013, \$104.5 million in FY2014, and projected to be \$118.2 million in FY2015 (**Document #9**).

Representative Don Hagggar asked about the high cost claimants. Mr. Steckel said that high cost claimants are members whose claims reach \$50,000 or more each year. The cost for these claimants did decrease in FY2014. Mr. Steckel said that they have case and condition management that works with chronic care, such as diabetes, cardiac conditions, and orthopedic. That program seems to have made a positive impact on the claim amounts.

Mr. Steckel also reported that although the lowest deductible members can choose is \$750, the trend sees members choosing the middle or highest deductible plans. One reason for this trend is premium rates for dependents decreases with the higher deductible. Another reason for this trend is that certain requirements have to be met to have the lowest deductible plan and some members choose not to meet those requirements.

**Representative Spence Hawley** asked Mr. Steckel to explain the new program called Tier 1. Mr. Steckel explained that Tier 1 is the state contracting directly with different providers for treatment of specific diseases. The bulk of these procedures are contracted with Sanford Health in Sioux Falls. He said that employees have contacted BHR because they have had to change providers to meet the Tier 1 guidelines. They do not have to use Tier 1 providers, but when a member chooses to go outside the Tier 1 provider list, their out of pocket costs increase.

Representative Hawley said that if a member chooses not to go to Sioux Falls to have a colonoscopy procedure, the out of pocket cost increases \$1500. Representative Hawley said that the State has been trying to support rural medical providers and this policy goes against all those efforts. This Tier 1 policy is affecting the rural communities.

Senator Peters said that there needs to be a common sense approach to this program and that this policy will be discussed over the next year or two. We have to look at how we get the best care to our members at the lowest cost yet support our rural healthcare providers.

Senator Tidemann asked what the savings is to the state because of the Tier 1 program. Mr. Steckel said that Tier 1 saves the state \$1.3 million and the contracts are for 3 years.

Senator Tidemann asked if the cost for correctional health has been reduced. He stated that we put more cost on the state employees and yet do nothing about decreasing the cost of correctional health.

## **Review Future Meeting Dates**

West River Tour will be held October 8-10, 2014.

The Governor's Budget Address will be December 2, 2014, and the Joint Committee on Appropriations will meet sometime either that day or the following day.

## **Adjourn**

**REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR TIDEMANN, TO ADJOURN. The motion prevailed unanimously on a voice vote.**

The Committee adjourned at 2:30 p.m.

All committee agendas and minutes are available on the LRC website: <http://legis.sd.gov/>. You may subscribe to electronic delivery of agendas and minutes at *E-Subscribe* on the LRC website.